

November 13, 2001

VIA E-MAIL & FIRST-CLASS MAIL

**PUBLIC VERSION**

Ms. Gloria Blue  
Executive Secretary  
Trade Policy Staff Committee  
Office of the U.S. Trade Representative  
600 17th Street, NW  
Washington, D.C. 20508

Re: Steel Industry Section 201 Investigation (ITC Inv. No. TA-201-73)—Request for Product Exclusions

Dear Ms. Blue:

Pursuant to the notice of the Trade Policy Staff Committee, Office of the United States Trade Representative, published in the Federal Register (66 Fed. Reg. 54,321 (Oct. 26, 2001)), we hereby submit on behalf of Kawasaki Steel Corporation, Nippon Steel Corporation, NKK Corporation, and Sumitomo Metal Industries, Ltd. ("Japanese Respondents"), the attached request to exclude from the scope of the above-referenced investigation certain welded carbon and alloy large-diameter line pipe products with the following dimensional and grade characteristics:

1. Welded line pipe with outside diameter ("OD") from 18 inches through 22 inches with a wall thickness ("WT") of 0.750 inch and greater, regardless of grade designation under American Petroleum Institute ("API") Specification 5L.
2. Welded line pipe with OD from 24 inches to less than 30 inches, and:
  - a. For grades API 5L A, B, and X42, with WT of over 0.875 inch;
  - b. For grades API 5L X52 to X56, with WT of over 0.750 inch; and
  - c. For grades API 5L X60 and higher, with WT of over 0.688 inch.
3. Welded line pipe with OD from 30 inches to less than 36 inches, and:
  - a. For grades API 5L A, B, and X42, with WT of over 1.250 inches;
  - b. For grades API 5L X52 to X56, with WT of over 1.000 inch; and
  - c. For grades API 5L X60 and higher, with WT of over 0.875 inch.
4. Welded line pipe with OD from 36 inches to less than 42 inches, and:
  - a. For grades API 5L A, B, and X42, with WT of over 1.375 inches;

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- b. For grades API 5L X52 to X56, with WT of over 1.250 inches; and
  - c. For grades API 5L X60 and higher, with a WT of over 1.125 inches.
5. Welded line pipe with OD from 42 inches to 64 inches, and:
- a. For grades API 5L A, B, and X42, with WT of over 1.5 inches;
  - b. For grades API 5L X52 to X56, with WT of over 1.375 inches; and
  - c. For grades API 5L X60 and higher, with WT of over 1.25 inches.
6. Welded line pipe with OD of 48 inches, WT of 1.000 inch, and grade API 5L X80 or higher.
7. Welded line pipe with OD greater than 64 inches, regardless of WT or grade.

All of these products are currently within the scope of "Category 20" products, or Welded (Non-OCTG) Carbon and Alloy Tubular Products.<sup>1</sup>

\* \* \* \*

#### **Request for confidential treatment**

Pursuant to the TPSC's Federal Register notice and Section 2003.6 of the TPSC's regulations, we hereby request confidential treatment for certain information contained in brackets ("[ ]") in this filing. This information is the confidential business proprietary information ("BPI") of the Japanese Respondents, and is not available in any publicly accessible form. Disclosure of the BPI could cause substantial harm to their business operations and competitive position in the market.

Specifically in Attachment 1, Japanese Respondents have listed their total quantity and value of sales of each product requested for exclusion and provided estimated projections of sales through 2005. Japanese Respondents consider this information to be business proprietary in nature and request that it be kept confidential

For the foregoing reasons, Japanese Respondents request that the large diameter line pipe products described in this letter be excluded from the scope of any relief the President orders for

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<sup>1</sup> *Notice of Final Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe From Japan*, 66 Fed. Reg. at 47172. Note that the exclusion of large diameter line pipe having an outside diameter greater than 64 inches and of any grade or wall thickness is incorporated into the first sentence of the scope stating "{t}he product covered by this investigation is certain welded... pipe... with an outside diameter greater than 16 inches, but less than 64 inches...."



**Arent Fox**

ATTORNEYS AT LAW

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the domestic steel industry under Section 203 of the Trade Act of 1974. Please contact the undersigned if there are any questions or if we may provide more information.

Respectfully submitted,

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**OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE,  
TRADE POLICY STAFF COMMITTEE**

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Business Proprietary Information has been  
deleted from Attachment 1.

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**REQUEST OF KAWASAKI STEEL CORPORATION, NIPPON STEEL  
CORPORATION, NKK CORPORATION, and SUMITOMO METAL  
INDUSTRIES, LTD. TO EXCLUDE PRODUCTS FROM IMPORT RELIEF  
UNDER SECTION 203 OF THE TRADE ACT OF 1974**

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## **Executive Summary**

Japanese producers of welded tubular products other than OCTG (category 20 products) respectfully request that certain large-diameter line pipe products be excluded from any Section 201 remedy promulgated by the USTR. These products are not produced by the domestic industry, nor is the domestic industry interested in these products as demonstrated by their explicit exclusion of them from a concurrent antidumping investigation. Because no U.S. producer can manufacture these products a Section 201 order covering them would serve no remedial purpose, but would harm U.S. line pipe purchasers and energy consumers. For this reason, the large diameter line pipe products identified below should be excluded from the scope of any Section 201 relief declared by the President.

**CERTAIN LARGE-DIAMETER LINE PIPE PRODUCTS MUST BE EXCLUDED  
FROM ANY REMEDY COVERING INVOLVING CATEGORY 20**

**I. INTRODUCTION**

Any remedy proposal for import relief on products in Category 20 must in the very least exclude large diameter line pipe products ("LDLP") that domestic producers cannot produce and are not interested in. In the concurrent antidumping investigation of *Certain Welded Large Diameter Line Pipe from Japan and Mexico*,<sup>1</sup> the U.S. industry crafted a petition scope that it later tacitly conceded to be overly broad. Certain line pipe products (as described below) were initially included in the antidumping petition, but were later requested for exclusion from the scope of the investigation by the domestic industry. The Department of Commerce agreed with that request and excluded these products from the antidumping investigation.<sup>2</sup> Because U.S. companies cannot produce these products, a Section 201 order covering them would serve no remedial purpose. For this reason, these products should be excluded from the scope of any Section 201 relief declared by the President.

Including these products in any Section 201 remedy might cripple the supply of U.S. oil and gas pipeline contractors who require foreign-made LDLP with these specifications for major pipeline projects. The pipe specifications excluded from the *Certain Welded Large Diameter Line Pipe* antidumping investigation (and listed below) have very heavy walls that are primarily needed in oil and gas production and exploration operations in the deep waters of the Gulf of Mexico and the North Atlantic coast, and also in arctic environs. Oil and gas fields in these regions are already a major source of the United States energy supply, and will continue to grow

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<sup>1</sup> ITC Inv. No. 731-TA-919-920. See April 9, 2001 and July 18, 2001 letters from Petitioners to Hon. Donald Evans specifically requesting exclusion of these products, attached as **Exhibit 1**.

<sup>2</sup> See *id.* See also, *Notice of Final Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe From Japan*, 66 Fed. Reg. 47172 (Sept. 11, 2001), attached as **Exhibit 2**.

in importance as new fields are explored and developed. Failure to exclude the products listed below from any Section 201 relief would hamper domestic efforts to access these energy sources by saddling such projects with significant additional costs without any apparent benefit to U.S. steel producers. To the extent that any such projects go forward, the cost of procuring the exclusively foreign-made LDLP specifications would be passed on to energy consumers, who would be forced to pay the additional 201-related energy premium.

The Customs Service will easily be able to administer an exemption for these products from any 201 remedy on Category 20 because these products are already excluded from the scope of the antidumping investigation. The Customs Service will already be developing an expertise in the products to exclude them from antidumping duties; Customs can simply apply this expertise and methodology at the same time to exclude the products from the Section 201 also.

Accordingly, Japanese Respondents respectfully request that the same products already excluded in the antidumping duty investigations on *Certain Welded Large Diameter Line Pipe from Japan and Mexico* be excluded from the scope of remedy in the present investigation.<sup>3</sup>

## **II. RESPONSE TO TPSC'S REQUEST FOR INFORMATION**

### **A. Description Under a Recognized Standard/Commercial Name and Physical Description of Products:**

We request that the following seven categories of welded large diameter line pipe be excluded from the application of any 201 remedy applied to 'category 20' products. (Note that the following product descriptions are responsive to information requested by the TPSC in points (a) and (b) of the October 26<sup>th</sup>, 2001, Federal Register notice.)

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<sup>3</sup> See Notice of Final Determination of Sales at Less Than Fair Value: *Welded Large Diameter Line Pipe From Japan*, 66 Fed. Reg. at 47172.



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1. Included within HTS heading numbers 7305.11.10.30, 7305.11.50.00, 7305.12.10.30, and 7305.12.50.00: welded line pipe with an outside diameter ("OD") from 18 inches through 22 inches with a wall thickness ("WT") of 0.750 inch and greater, regardless of grade designation under American Petroleum Institute ("API") Specification 5L..
2. Included within HTS numbers 7305.11.10.30, 7305.11.10.60, 7305.11.50.00, 7305.12.10.30, 7305.12.10.60, and 7305.12.50.00: welded line pipe with an OD from 24 inches to less than 30 inches, and:
  - a. for grades API 5L A, B, and X42, with a WT of over 0.875 inch;
  - b. for grades API 5L X52 to X56, with a WT of over 0.750 inch; and
  - c. for grades API 5L X60 and higher, with a WT of over 0.688 inch.
3. Included within HTS heading numbers 7305.11.10.60, 7305.11.50.00, 7305.12.10.60, and 7305.12.50.00: welded line pipe with an OD from 30 inches to less than 36 inches, and:
  - a. for grades API 5L A, B, and X42, with a WT of over 1.250 inches;
  - b. for grades API 5L X52 to X56, with a WT of over 1.000 inch; and
  - c. for grades API 5L X60 and higher, with a WT of over 0.875 inch.
4. Also included within HTS heading numbers 7305.11.10.60, 7305.11.50.00, 7305.12.10.60, and 7305.12.50.00: welded line pipe with an OD from 36 inches to less than 42 inches, and:
  - a. for grades API 5L A, B, and X42, with a WT of over 1.375 inches;
  - b. for grades API 5L X52 to X56, with a WT of over 1.250 inches; and
  - c. for grades API 5L X60 and higher, with a WT of over 1.125 inches.
5. Also included within HTS heading numbers 7305.11.10.60, 7305.11.50.00, 7305.12.10.60, and 7305.12.50.00: welded line pipe with an OD from 42 inches to 64 inches, and:
  - a. for grades API 5L A, B, and X42, with a WT of over 1.5 inches;
  - b. for grades API 5L X52 to X56, with a WT of over 1.375 inches; and
  - c. for grades API 5L X60 and higher, with a WT of over 1.25 inches.

6. Also included within HTS heading numbers 7305.11.10.60, 7305.11.50.00, 7305.12.10.60, and 7305.12.50.00: welded line pipe with an OD of 48 inches, a WT of 1.000 inch or greater, in grades API 5L X80 or higher.
7. Also included within HTS heading numbers 7305.11.10.60, 7305.11.50.00, 7305.12.10.60, and 7305.12.50.00: welded line pipe with an OD greater than 64 inches, regardless of WT or grade.<sup>4</sup>

**B. Basis for Product Exclusion—Simple Cost-Benefit Analysis Compels Exclusion of These LDLP Products from any 201 Remedy**

Inclusion of these products in a 201 remedy on Category 20 will provide no relief to the U.S. industry, because they do not compete for sales of these products. Inclusion will only cause serious harm to U.S. energy suppliers who strictly require these products in certain applications and can only source them from foreign LDLP producers.

The nature of the project line pipe business is such that

{l}arge diameter line pipe purchasers need line pipe with very specific specifications. An engineering department develops a proprietary specification exceeding the API standard, which incorporates the desired mechanical properties to customize the pipeline for the application and design life.<sup>5</sup>

The products that have been excluded from the antidumping investigation are used to meet such exacting specifications. No substitutes exist. These products are not produced by the domestic industry.

Restricting access to these line pipe products by including them in any remedy on Category 20 will impose a tremendous cost on U.S. purchasers, and threaten to entirely eliminate these products from the U.S. market for the duration of the remedy's application. Numerous oil and gas transmission pipelines are slated for construction over the next several years, at the same

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<sup>4</sup> *Notice of Final Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe From Japan*, 66 Fed. Reg. at 47172. Note that the exclusion of large diameter line pipe having an outside diameter greater than 64 inches and of any grade or wall thickness is incorporated into the first sentence of the scope stating "{t}he product covered by this investigation is certain welded... pipe... with an outside diameter greater than 16 inches, but less than 64 inches...."

<sup>5</sup> Injury Hearing Transcript at 2666 (testimony of Joe Maxwell).

time that 201 relief will be in place. Preventing access to products that are critical to construction of such pipelines will cause construction delays/postponements or will substantially increase the cost of constructing a pipeline. For example, U.S. energy company BP America is presently constructing one pipeline and has plans to construct a second using significant quantities of the line pipe product described above that cannot be made domestically. *See Attachment 3* (excerpt from BP America's request to exclude product from the ITC's 201 remedy determination). As BP America notes: "{a}ny restrictions or additional duties imposed on these shipments would cause serious difficulties for the project." *Id.*

Delays or postponements of critical pipeline construction could lead to increased energy shortages and power outages in key regions such as California and New England, which have already struggled to find sufficient energy resources. If a tariff or tariff-rate quota remedy is adopted and construction of such pipelines moves forward in spite of the 201 remedy, domestic energy companies and consumers will bear the brunt of increased line pipe costs, adversely impacting the entire U.S. economy.

In addition, the United States has a compelling national security interest in increasing its energy independence by bringing regional and domestic sources of oil and natural gas to market. A 201 remedy on these LDLP products that are not produced domestically stands to block this goal by increasing pipeline costs.

While U.S. energy companies and consumers stand to lose significantly under a 201 remedy regime that covers these products, the economic benefits and protections afforded the U.S. industry by such efforts will be nonexistent. As demonstrated by its request to exclude these products from the recent antidumping investigation, the domestic industry is admittedly not

interested in these products. For this reason, a 201 remedy on these LDLP products will not benefit the U.S. steel producers and should not be effectuated.

As a practical matter, the Customs Service can easily administer any remedy on Category 20 that exempts these products. Customs already must have a system in place to exclude antidumping duties on these specific products imported from Japan because they were explicitly excluded from that order. Presumably Customs' system of identifying these LDLP products could be adapted to exclude the very same products from a 201 remedy.

**C. Producers of the LDLP Products for Which Exclusion is Requested**

There are no U.S. manufacturers of the LDLP products being requested for exclusion herein. Other than the four Japanese producers who are presenting the instant request for exclusion, the known foreign producers of the LDLP products for which Japanese respondents request exclusion are: Europipe (Germany and France), Corus (United Kingdom), Ilva (Italy), Berghol (Germany), Kramer (Germany), CPW (Greece), SAW Pipes India (India), and Confab (Brazil).

**D. Total U.S. Consumption of LDLP Products for Which Exclusion is Requested**

Japanese respondents have attached a chart in **Attachment 1** that provides the aggregate U.S. consumption of Japanese-made products requested for exclusion for the years 1996-2000. While the Japanese producers know that the other international companies listed above also sell these products in the U.S. market, they have no basis upon which to calculate or to reliably estimate the quantity or value of sales of past or future sales for these companies.

The U.S. pipeline industry's requirements are project specific depending on the environment in which the pipe is laid. This factor makes meaningful projections of LDLP usage very elusive and almost impossible to confidently offer. That said, based upon general LDLP

demand trends, the Japanese producers have projected U.S. consumption for these products for the years 2001-2005 in **Attachment 1**. A projected increase in LDLP demand of 3.2 % per year is expected over the 2001-2005 period, based upon U.S. government and industry forecasts that project a robust outlook, particularly in the natural gas market for the next several years. The attached report, "The U.S. Large Diameter Line Pipe Market: Conditions and Factors Driving Demand of Large Diameter Line Pipe," Spears & Associates, Inc. (September 2001), provided at **Attachment 2** to the instant letter, details these factors. As noted by BP America and demonstrated by two projects highlighted by them in **Attachment 3**, high-level demand conditions are expected especially for the LDLP products requested for exclusion herein because of their unmatched ability to perform in harsh conditions like deepwater and arctic environments.

**E. Total U.S. Production of LDLP Products for Which Exclusion is Requested**

Japanese respondents believe that U.S. manufacturers of LDLP manufactured none of the products listed in A. above during the 1996 – 2000 period. The domestic industry's inability to produce these products is underscored by their explicit exclusion of them from the antidumping duty investigation of *Certain Welded Large Diameter Line Pipe from Japan and Mexico*.<sup>6</sup>

**F. U.S. Substitutes for LDLP Products for Which Exclusion is Requested**

There are no practical substitutes for the LDLP products for which exclusion is requested. Seamless pipe is a theoretical substitute for some LDLP products, but sells at such an inflated price premium that it is no practical substitute for welded LDLP in pipeline project applications. Particularly given the large outside diameter and wall thicknesses, as well as the grade mix of the products for which exclusion is specifically requested here, there are no substitute products.

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<sup>6</sup> See Notice of Final Determination of Sales at Less Than Fair Value: *Welded Large Diameter Line Pipe From Japan*, 66 Fed. Reg. 47172.

### **III. CONCLUSION**

Japanese respondents respectfully request that these LDLP products be excluded from any remedy proposal. These products are not produced by the domestic industry, nor is the domestic industry interested in these products (as demonstrated by its request to exclude these products in the concurrent antidumping investigation). Exempting these products from any remedy on Category 20 will prevent harm to U.S. line pipe purchasers without sacrificing any benefits to the U.S. industry. Moreover, Customs will be able to administer these exemptions using the procedures established in the antidumping investigation.